

1 Q. **Absolutely.**

2 A. Okay.

3 Q. Take all 23 of them.

4 A. And their degradation products that I've
5 mentioned?

6 Q. **Absolutely.**

7 A. Okay.

8 Q. Take all of them.

9 A. Yes.

10 Q. And consider it a mixture. Does your
11 report express any condition as to what dose of
12 exposure to that mixture would be likely to result in
13 harm to human health?

14 MR. ALTMAN: Objection.

15 A. The compounds in this report, some of them
16 appear in water; some of them might be carried in
17 windblown soil; some of them may be off-gassing from
18 soil, so there would be multiple routes of --
19 potentially multiple routes of exposure and
20 differences in terms of temporal and spacial
21 characteristics of the exposures. So I would venture
22 to guess that it would be unlikely that one -- that
23 people living in different areas around the facility
24 could have exposure to exactly the same suite of
25 these mixtures. So, therefore, it would not be

1 fruitful to try and identify a dose for each of these
2 together that would yield some sort of a hypothetical
3 outcome.

4 **Q. Does your report express any opinion as to**
5 **the nature of any actual exposure to any of these**
6 **substances, separately or in combination with others,**
7 **that people are actually experiencing or are likely**
8 **to actually experience around the Carlisle Engineered**
9 **Products facility?**

10 MR. ALTMAN: Objection.

11 A. Throughout the report, it refers to the
12 haz- -- some of the hazardous effects that are
13 associated with these particular compounds, adverse
14 health effects that occur in community-exposed
15 individuals and occupationally-exposed individuals.
16 And because the nature of the exposures to those
17 living in the vicinity of the Carlisle facility
18 aren't fully understood, then it wouldn't be
19 appropriate for me to try to express an opinion with
20 regard to individuals or their exposures.

21 **Q. When you say the exposures are not -- are**
22 **not fully understood, could you tell me what you mean**
23 **by that statement?**

24 A. Yes. There is -- there is evidence that
25 has -- or there is information in other reports

1 submitted as part of this case that suggest off site
2 transmission via groundwater, via air, via surface
3 water, via soil and -- however, my understanding is
4 that these have not been studied sufficiently in
5 order to establish clearly the exposures that are
6 occurring to those who live in the vicinity of the
7 Carlisle facility.

8 **Q. And your report does not address that issue
9 directly; is that correct?**

10 A. Well, my report, as I've said, articulates
11 with regard to the adverse health effects associated
12 with these compounds and occupational and community
13 health settings, and so that's clearly relevant to
14 the exposures that the people living in the vicinity
15 of the Carlisle facility would experience and,
16 therefore, the adverse health effects articulated,
17 that they may be at risk for those adverse health
18 outcomes.

19 **Q. I don't think that's what I asked you,
20 Doctor. Let's try it again.**

21 A. Okay.

22 MR. ALTMAN: Objection, argumentative.
23 Objection, argumentative.

24 **Q. If I understood correctly, you told me that
25 there were some suggestions in some of the other**

1 reports rendered by some of the other experts in the
2 case that there were some potential exposure
3 pathways, but that those exposure pathways have not
4 yet been sufficiently studied to determine whether
5 and to what extent people in the vicinity were being
6 exposed. Is that correct?

7 MR. ALTMAN: Objection,

⁸ mischaracterizes the testimony.

11 MR. ALTMAN: I'm objecting to what
12 your -- to your question. It mischaracterizes the
13 testimony.

14 A. So is there a question?

15 Q. There is.

16 MR. DUHAMEL: Would the court reporter
17 read it back, please?

18 (The reporter read the requested
19 portion of the record.)

20 MR. ALTMAN: I'm going to have an
21 objection as to form and as to the
22 mischaracterization.

23 Go ahead, Doctor.

24 A. So, there are other reports that speak to
25 what is known about the movement of materials and the

1 concentrations on site. There's less information, as
2 I understand it, with regard to what is off site, but
3 there are -- the pathways are evident that there
4 is -- such that there would be exposure to the
5 materials from materials from the Carlisle facility
6 to those who live in the neighboring vicinity.

7 **Q. (BY MR. DUHAMEL) Does your report -- I'm**
8 **talking about your expert report -- address the**
9 **likelihood of actual exposure to any of these**
10 **products or substances that might be experienced by**
11 **anyone within the vicinity of Carlisle Engineered**
12 **Products?**

13 A. The list of compounds comes from
14 materials -- lists of materials from the facility
15 that were -- that were used there. They were
16 supplied to the facility. They were in the waste
17 streams from the facility. Therefore, given that
18 they were in use on the facility, there's the
19 potential for them to cause exposure off site and
20 then -- so that extent, that is -- that is an element
21 of my report, yes.

22 **Q. Could you show me where your report says**
23 **that?**

24 A. On Page 10, on the listing of information
25 considered in forming my opinion, there's No. 30,

1 No. 31, No. 32, No. 33 on Page 11.

2 **Q. That's the information that you considered.**

3 **Is there anywhere in your report where you expressed**
4 **the opinion that people are likely to be exposed to**
5 **any of the substances that you've identified in the**
6 **report? I'm not asking about what other people may**
7 **or may not have said. I'm asking, is there anyone in**
8 **your -- anywhere in your report where you express**
9 **that opinion?**

10 A. Well, I guess, to that I would say --

11 MR. ALTMAN: Objection.

12 Peter --

13 THE WITNESS: YES.

14 MR. ALTMAN: Objection. I think that's
15 been asked and answered.

16 Go ahead.

17 A. I would say that it's implicit in the
18 report, because, obviously, these compounds that
19 I've -- that I've described the toxicity of in my
20 report were not picked out of -- at random. They
21 were picked because they were compounds that evidence
22 suggests were on site, and there's -- and were either
23 in the waste stream, the supply stream or were
24 identified in sampling. So the fact that these are
25 the ones that were selected as opposed to some other

1 random compound is because there was the potential
2 for exposure to these. So it's the nature of the
3 report. It's inherent in the report that those are
4 there for that reason, and, thus, it isn't something
5 that one would expect to explicitly state.

6 I mean, it says, The facts and opinions
7 about waste handling, storage, disposal practices,
8 fate and effects are provided by other reports. This
9 summarizes the properties of certain chemicals used
10 by and/or released from the Carlisle facility. So
11 that sentence demonstrates that these are picked
12 because they have the potential -- that they were
13 used by and have the potential for release or were
14 released from the Carlisle facility. So I think the
15 answer to your question is, yes, if I understand your
16 question.

17 (A discussion was held off the record.)

18 Q. (BY MR. DUHAMEL) Doctor, had you read any
19 other expert reports at the time you prepared this
20 report?

21 MR. ALTMAN: Objection.

22 A. You said "have I"? Do you mean "had I"?

23 Q. Had, had, H-A-D.

24 A. Yes. Thank you. Had I --

25 Q. At the time you prepared this report.

1 A. I don't believe I had. I do not recollect
2 having read any other report at the time I did this.

3 **Q. And I notice that in Item 2, Information**
4 **Considered in Forming My Opinion, none of those**
5 **expert reports submitted by the Plaintiffs is listed;**
6 **is that correct?**

7 A. So there are two reports listed on Page 2
8 under No. 2, and they do not appear in the list on
9 Pages 10 and 11.

10 **Q. That's what I'm asking, and that's correct,**
11 **right? They do not appear on the list on Page 11 --**

12 A. Yes, that's what I stated.

13 **Q. -- Pages 10 and 11?**

14 Okay. Doctor, at the time you prepared
15 your report, had you spoken to anyone at Bennett &
16 Williams Environmental Consultants?

17 A. No.

18 **Q. At the time you prepared your report, had**
19 **you spoken to anyone at Carpenter Environmental**
20 **Associates?**

21 A. No.

22 **Q. Who supplied to you the list of substances**
23 **that you evaluated in your report?**

24 A. This -- these compounds were on a list
25 provided to me by Mr. Altman and his associates.

1 Q. Have you -- let me rephrase.

2 Does your report contain any independent
3 assessment by you of the likelihood of exposure to
4 these substances by anyone around the Carlisle
5 Engineered Products facility?

6 MR. ALTMAN: Objection.

7 A. I believe that that's been -- that you
8 asked me that already, and I've answered that. This
9 refers to -- that the compounds are here because they
10 are used by or released from the Carlisle facility,
11 and that's what puts them on the list. Therefore,
12 there's the potential --

13 Q. I remember you said that.

14 A. -- for exposure.

15 Q. But what I'm asking you is whether you
16 independently have performed any actual assessment of
17 the likelihood of actual exposure to these products
18 or substances based on the way that they are
19 currently in existence at the facility?

20 MR. ALTMAN: Objection.

21 A. Well, first of all, this report is not --
22 doesn't reflect what's currently there, because this
23 report came some time ago, as you know. And in
24 addition, the report is based on the information
25 of -- that reflects the use of the materials at the

1 facility and, therefore, having the potential to
2 lead to exposures to individuals who live in the
3 facility -- vicinity of the facility, so to that
4 extent, the answer would be yes.

5 **Q. All right. Let's try it this way. Other**
6 **than the fact that somebody told you that these**
7 **products, at least at some time, had been used at the**
8 **facility, do you have any reason to believe, that is**
9 **expressed in your report, that anyone is likely to be**
10 **exposed to these products around the Carlisle**
11 **Engineered Products facility?**

12 MR. ALTMAN: Objection.

13 A. The items I pointed to earlier, the letters
14 and attachments between and to people at Carlisle
15 demonstrate that there was use of these materials and
16 in some cases demonstrates that there was exposure on
17 site, so the answer to your question would be yes.

18 **Q. Other than the fact that some of the items**
19 **on which you relied say that, does anywhere in your**
20 **report express an opinion on that subject?**

21 MR. ALTMAN: Objection. This is
22 boarding on argumentative.

23 A. As I stated, the -- what I was asked to do
24 and my role as an expert was to provide information
25 on the toxic properties of the compounds used by or

1 found at the site. And there were other experts
2 offering opinions on fate and transport and
3 hydro-geology and movement of the compounds, so, you
4 know, I did just that. And the compounds that I
5 list -- I talked about in the report or gave
6 information about in the report are in the report
7 because they were used at the facility and referred
8 to in various documents that are referenced therein.

9 MR. DUHAMEL: Could the court reporter
10 read my question back? And I'll ask the witness to
11 actually answer it.

12 MR. ALTMAN: Objection. Marcel, we're
13 going to at least take a break if you continue to
14 argue with the witness.

15 MR. DUHAMEL: Well, we can take a break
16 after the witness answers my question.

17 MR. ALTMAN: No. What I meant was, we
18 may terminate the deposition if you continue to
19 badger the witness.

20 MR. DUHAMEL: I'll ask my questions.

21 MR. ALTMAN: Well, you're not going to
22 intimidate the witness.

23 MR. DUHAMEL: I'm quite confident that
24 Dr. Thorne is not going to be intimidated by me.
25 However, I will ask my questions until they're

1 answered.

2 THE WITNESS: And I'm doing the best to
3 answer the questions that you're posing to me, I can
4 assure you.

5 MR. ALTMAN: Marcel, that's
6 disrespectful and uncivil. And if you contrast the
7 honest way this man's been answering with the people
8 that have been put in front of me, it will be
9 astounding.

10 MR. DUHAMEL: I'm not going to engage
11 in that on this transcript, but --

12 MR. ALTMAN: Well, you're not going to
13 insult Dr. Thorne, who is an honest and straight-
14 forward man.

15 MR. DUHAMEL: Nor have I suggested to
16 the contrary. I'm going to ask the witness -- or,
17 rather, the court reporter to go back and re-read the
18 question?

19 MR. ALTMAN: Marcel, I have a high
20 regard for you, but your questions have been almost
21 incomprehensible.

22 (The reporter read the requested
23 portion of the record.)

24 A. So there's two "that's" in the question
25 that I'm not certain what they mean at this point, so

1 if you could rephrase your question or ask it again
2 in a more specific manner, I'd be happy to answer it.

3 Q. (BY MR. DUHAMEL) All right. Let's try it
4 this way, Doctor. I understand that you have told me
5 that some of the items upon which you relied in
6 formulating your report express the view that these
7 substances that are the subject of your report were
8 used at the facility. Is that understanding correct?

9 A. Yes.

10 Q. I also understood from your testimony --
11 and please tell me if this is correct or a
12 mischaracterization -- that to the extent to which
13 you believe that people might be exposed to any of
14 those products or substances, it is because you know
15 them to have been used at the Carlisle Engineered
16 Products facility; is that correct?

17 MR. ALTMAN: Objection as to form and
18 substance.

19 A. So you're asking, at the time I wrote the
20 report and the information I had in my knowledge at
21 that time contrasted with what I know today?

22 Q. Yes. Absolutely.

23 A. Okay. So at the time I wrote my report, I
24 knew of the listed compounds. I knew of the letters
25 that I've referred to several times. I also knew

1 that there had been some soil sampling performed that
2 showed that there were compounds that are on --
3 contained within my report appearing at levels that
4 would not be expected in normal samples or
5 non-contaminated samples, so that was also a piece of
6 information that was part of my knowledge at the time
7 that I wrote this report.

8 Now, those were -- that's the best of my
9 recollection with regard to what I knew at that time
10 with regard to this case. And, of course, this has
11 been a continuum. The report was -- the report
12 authoring was at one time point along this continuum
13 of learning more of this particular case, but to the
14 best of my recollection, that's what I knew at that
15 time.

16 Q. All right. Then apart from listing the
17 sources of information on which you relied, does your
18 actual expert report -- as distinct from whatever
19 opinion you may currently hold, does your actual
20 expert report express any opinion as to the
21 likelihood of actual exposure to any of the
22 substances at or around the Carlisle Engineered
23 Products facility?

24 A. Well, I would --

25 MR. ALTMAN: Objection.

1 A. I'm sorry. I have to go back to the same
2 answer I've given multiple times, which is that these
3 compounds were used and -- in the waste products
4 streams from the facility and they -- these
5 compounds, by their very nature, have the potential
6 to move in the environment. And so with that
7 knowledge, one has to consider the possibility that
8 people in the vicinity of the facility would have
9 exposure. And looking at the transmissions and the
10 correspondence in these particular letters that I've
11 pointed to, it's reasonable to consider that that
12 would be a possibility. So, I guess, it's a
13 qualified yes to your question as stated.

14 **Q. And what I'm specifically trying to**
15 **understand, Doctor, is not what opinion you have**
16 **right now. Where in your report does it express that**
17 **view?**

18 MR. ALTMAN: Objection.

19 A. So I would point again to my comments under
20 Section D that we've talked about, and then I
21 would -- I would point to the fact that this --
22 Page 2 under No. 2, that the report summarizes the
23 toxic properties of chemicals used by and/or released
24 from the Carlisle facility. So those are the places
25 where I refer to that.

1 **Q. Nowhere else?**

2 A. And then as I stated, it's implicit in the
3 inclusion of these particular compounds on the list.
4 They wouldn't be on the list if there wasn't a reason
5 for it.

6 **Q. All right. Is the list of the chemicals**
7 **that was supplied to you by someone at Mr. Hodgins'**
8 **(sic) law firm, is that identified on Item 2 on**
9 **Page 10?**

10 A. When we -- when you asked me about
11 getting -- the inclusion of compounds, I believe I
12 told you that some of the compounds were on a list,
13 and I also point to compounds that were contained in
14 these letters that I've referred to from the -- that
15 represent company documents, so there isn't a list,
16 per se. There was some compounds that were of
17 interest to Mr. Hodgins' firm, and then there were
18 compounds that were referred to in these particular
19 letters and correspondences. And so all of that
20 together became sort of a precursor to the compounds
21 that are actually listed here, which is a subset of
22 those other listings of compounds; both those that I
23 came up with and those of others -- of the law firm,
24 so there isn't a --

25 **Q. But I understand there was a list --**

1 MR. ALTMAN: Objection. Marcel, let
2 him finish.

3 MR. DUHAMEL: I was trying.

4 MR. ALTMAN: Go ahead and finish,
5 Peter.

6 A. Okay. This -- so what's represented here
7 is the list of compounds in my report. There is no
8 other list of compounds in my report other than what
9 you see before you in Exhibit 1. Now, there was a
10 more extensive list of an array of compounds that I
11 considered in -- to include in my report, and that
12 was drawn from my own investigations with regard to
13 looking at these documents I've referred to as well
14 as compounds that were of interest to Mr. Altman
15 based on his review of company documents. Those --
16 in some cases, there were duplication between the
17 various sources of information. All of that, then, I
18 took and came up with a list that is what you see in
19 the report here. That is the list that is reported
20 on.

21 **Q. (BY MR. DUHAMEL) Doctor, it is true, isn't**
22 **it, that someone at Mr. Altman's law firm sent you a**
list of substances in which they were interested?

24 A. Yes.

25 MR. ALTMAN: Objection.

1 **Q. Does that list appear anywhere on your**
2 **report as an item on which you relied in any way?**

3 A. Well, first of all, I mean, there was not
4 a list, per se. What there was in our correspondence
5 was some compounds of interest, in some cases
6 compounds that have alternative names, alternative
7 spellings, and then that was some compounds that
8 Mr. Altman's firm apparently had decided were of
9 interest to them. Many of those were also compounds
10 identified in my viewing of the documents that I've
11 referenced in my list, and so it's a host of
12 different compounds deriving from different sources.

13 **Q. Doctor, did the list or any listing that**
14 **Mr. Altman's law firm sent to you appear anywhere on**
15 **your report as an item on which you relied in any**
16 **way?**

17 MR. ALTMAN: Objection.

18 A. I have not listed in the listing of sources
19 information considered in forming my opinion. I have
20 not listed a list of candidate compounds or compounds
21 of interest to Mr. Altman among that list, so, no, it
22 isn't listed in information considered in forming my
23 opinion.

24 **Q. Are any of the substances which you**
25 **addressed in your opinion -- in your report**

1 **substances you addressed because Mr. Altman asked you**
2 **to do so?**

3 A. I don't know the answer to that, because I
4 would have to look specifically at which compounds
5 derived from what sources, which letters and so
6 forth, and that's not something that I have
7 endeavored to do.

8 **Q. So if I understand correctly, sitting here**
9 **today, you would not be able to go through your**
10 **report and identify the substances that you studied**
11 **because you saw through documentation that they were**
12 **being used at the plant as distinct from documents or**
13 **substances that you studied because Mr. Altman's firm**
14 **asked you to study them?**

15 MR. ALTMAN: Objection. There's been
16 testimony on that. That's misleading, inaccurate,
17 and I object to the form.

18 A. Sitting here right now, I do not know which
19 compound came from which source, the letters and
20 attachments, the correspondence, and which, if any,
21 were on -- were suggested as compounds to be
22 considered by Mr. Altman.

23 **Q. Do you still possess correspondence from**
24 **Mr. Altman, indicating which compounds they would**
25 **like you to look at?**

1 A. I don't believe so.

2 **Q. When did you dispose of that?**

3 A. I don't know. Generally, when I create a
4 report such as this, notes such as, you know,
5 candidate substances to consider are something I
6 don't keep.

7 **Q. So would there be any way to reconstruct
8 the source of your information with respect to any of
9 the substances on your report?**

10 A. I believe there would be, and that would be
11 to see -- to look through carefully the letters and
12 attachments that are referred to in the list of
13 information considered in forming my opinion and then
14 to endeavor to determine if there are any compounds
15 that I've provided in my report -- included in my
16 report that were not in any of those documents. So
17 it would be something that would be done by
18 exclusion.

19 **Q. And what would we be able to determine by
20 that process of exclusion? In other words, if we
21 were to look at the items on Page 10 and determine
22 what substances exist on that -- on those documents
23 and then determine that your report addressed
24 additional substances, what would that tell us about
25 the source of your information concerning those**

1 **additional substances?**

2 MR. ALTMAN: Objection.

3 A. I would -- I would think that that would
4 indicate that those compounds were included as an
5 outgrowth of my discussions with Mr. Altman's --
6 Mr. Altman and his associates.

7 **Q. Other than your expert report and the items**
8 **listed on Page 10, moving on to Page 11, do you have**
9 **any other documents in your possession that relate to**
10 **this engagement?**

11 A. I have an interim accounting of my time
12 spent on the case and a bill that I submitted to
13 Mr. Altman's firm.

14 **Q. Anything else?**

15 A. You say in relation to the engagement. As
16 I understand what you're asking, that would be all.

17 **Q. Well, let's be clear. When I say --**

18 MR. ALTMAN: Wait a minute. Marcel,
19 why don't you explain to him what you mean by -- you
20 mean in connection with the services he performed,
21 right, so far?

22 MR. DUHAMEL: Yes. I was attempting to
23 do that, David.

24 MR. ALTMAN: Go ahead.

25 **Q. (BY MR. DUHAMEL) All right. Let's be**

1 clear. When I say "engagement," I mean -- I don't
2 mean the specific terms of your engagement. I mean
3 the services you rendered. Do you have any documents
4 related to the performance of your expert services in
5 this case?

6 A. Yes. And now you're talking about --

7 Q. Other than the ones you just described?

8 A. Yes. You're talking about now, correct,
9 meaning at this point in time as opposed to when the
10 report was written?

11 Q. I'm talking about at the time the report
12 was written. Let me give you a few examples of what
13 I'm asking about. We'll try it this way.

14 A. Okay.

15 Q. Do you have any notes reflecting any of
16 your work that ultimately led to your report?

17 A. At the time of my report?

18 Q. Well, I'm talking about work that led to
19 your report, so presumably if you have notes that
20 were generated after, they couldn't have led to your
21 report.

22 A. Correct. But I may have had notes at the
23 time I wrote my report that I no longer have.

24 Q. Okay. That's a fair question.

25 Were there at any time documents related to

1 **this engagement that you had that you no longer have?**

2 A. Yes.

3 **Q. What documents were those?**

4 A. Those would be notes that I make along the
5 way with regard to reading the scientific and
6 toxicologic literature, notes that I make that are
7 relevant to the generation of the report.

8 **Q. Would there be anything else?**

9 A. There would have been -- I probably would
10 have at that time notes regarding -- that I would
11 take in conversations with Mr. Altman regarding
12 the -- you know, the report in terms of what he was
13 asking me to investigate in terms of, you know,
14 providing an opinion as to the toxic com- -- nature
15 of the compounds that I was investigating.

16 **Q. Do any of those notes still exist?**

17 A. I don't know. I would have to check.

18 **Q. How about correspondence exchanged between
19 you and Mr. Altman's law firm?**

20 A. There -- again, you're referring to at the
21 time I wrote the report, not now, correct?

22 **Q. What I'm referring to is, were there
23 documents that you exchanged between yourself and
24 Mr. Altman's law firm or vice versa as of the time
25 you wrote your report or prior?**

1 A. Yes. Those listed under Nos. 30, 31, 32,
2 33 in the report, and there would probably be a -- or
3 possibly be a cover letter saying, "Please find
4 herein" da, ta, da, ta, da.

5 **Q. Would Mr. Altman's law firm have sent you**
6 **any other correspondence?**

7 A. Possibly correspondence to schedule a
8 telephone discussion that would come -- the type that
9 would be arranged through a secretary.

10 **Q. Any other kind of correspondence?**

11 A. Not that comes to mind.

12 **Q. I want to ask you now about what you**
13 **currently have in your possession.**

14 A. Okay.

15 **Q. Other than the expert report, the interim**
16 **time record that you mentioned and the items listed**
17 **on Pages 10 to 11 of the report itself, do you have**
18 **any other documents related to the work that you**
19 **performed for the Plaintiff in this case?**

20 A. Yes. I -- would you like me to list them?

21 **Q. Could you tell me what those documents are?**

22 A. Yes.

23 **Q. Yes, please.**

24 A. I have the report of Dr. Bruce Bell;
25 although, I don't -- I'm not certain I have all of

1 the appendices with that. For instance, I don't
2 believe I have his CV. Similarly, I have the report
3 of Julie Wetherington-Rice. I have the report of
4 Dr. Richard Lewis. I have part of a summary area
5 investigation that I believe is from a firm called
6 Cox & Colvin. I have a transcript of the deposition
7 of Dr. Lewis. I have some notes I've taken and
8 perhaps some toxicologic profiles from the ATSDR,
9 Agency for Toxic Substances and Disease Registry,
10 that are drawn from their -- they post those on their
11 Internet site. And then if I've done reading in
12 toxicologic texts that are referenced, for instance,
13 the Casarett and Doull toxicology book, I believe, I
14 have some notes that I recorded when reading from
15 that text.

16 **Q. Are those all things that came into your**
17 **possession after the time you produced your expert**
18 **report in this case?**

19 A. Yes.

20 MR. DUHAMEL: Okay. It's a quarter to
21 1:00. I propose we take a five-minute break. I'm
22 going to review my notes. I think we are nearing
23 completion.

24 THE WITNESS: Okay.

25 MR. DUHAMEL: Let's just take five